

51st MEETING
OF THE
MARYLAND HEALTH CARE COMMISSION

Thursday, December 18, 2003
Minutes

Chairman Wilson called the meeting to order at 1:00 p.m.

Commissioners present: Chase, Crofoot, Ginsburg, Malouf, Moffit, Nicolay, Risher, Row, Salamon, and Toulson.

ITEM 1.

Approval of Minutes

Commissioner Ernest Crofoot made a motion to approve the Minutes of the November 20, 2003 meeting of the Commission, which was seconded by Commissioner Constance Row, and unanimously approved.

ITEM 2.

Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

Ben Steffen, Deputy Director of Data Systems and Analysis, announced that Physician Trauma Fund training sessions would be held in January 2004 by Commission staff and members of the Medicaid staff. Copies of the *Update* were available on the documents table and on the Commission's website at:
<http://www.mhcc.state.md.us/mhccinfo/cmsnmtgs/updates/>.

ITEM 3.

PROPOSED AND EMERGENCY ACTION: COMAR 10.24.10, State Health Plan: Acute Inpatient Services

Patricia Cameron, Chief of Acute and Ambulatory Care Services, said that, at the October 30, 2003 meeting, the Commission released a Working Paper with recommended changes to the acute care hospital bed need projection methodology and a 2010 bed need forecast for the medical-surgical-gynecology-addiction (MSGGA) and pediatric services bed categories for informal public comment. The bed need projections are intended to guide Certificate of Need decisions made by the Commission on the need for new and expanded hospital capacity. The Working Paper outlined several proposed changes to the acute inpatient hospital bed need projection methodology, provided background and rationale for the proposed changes, and showed the results of the forecast methodology for the year 2010. Following the October 30, 2003 release, the Working Paper was posted on the Commission's website and e-mailed to an Acute Care Hospital Planning Work Group that includes representatives from most Maryland hospitals as well as the Maryland Hospital

Association. The informal comment period concluded on November 24, 2003. *An Analysis of Informal Comments and Staff Recommendations: Draft State Health Plan for Facilities and Services: Acute Care Hospital Services (COMAR 10.24.10)-Dated December 18, 2003* analyzes the written comments submitted to the Commission during the informal comment period and recommends several modifications in response to those comments. Additionally, germane to comments received on the Working Paper, staff recommended development of a second Working Paper examining the compatibility of the current acute care hospital bed licensure statute and use of hospital bed need projection in CON regulation. Paul Parker presented a summary of that Working Paper and information regarding the staff recommendation that the Commission adopt the proposed revisions to the acute care bed need methodology and the 2010 bed need forecast for MSGA and pediatric services, with suggested modifications, as both proposed and emergency regulations. Vice Chairman George Malouf made a motion to approve the proposed regulations as Emergency and Proposed regulations, which was seconded by Commission Row, and unanimously approved with a suggested modification changing the word “and” to the word “or” in the regulation.

PROPOSED AND EMERGENCY ACTION: COMAR 10.24.10, State Health Plan: Acute Inpatient Services and hereby APPROVED.

ITEM 4.

RELEASE FOR PUBLIC COMMENT: HMO Measures for 2004 and 2005

Joyce Burton, Chief of HMO Quality and Performance, said that the Commission is charged with developing and implementing a system to comparatively evaluate the quality of care outcomes and performance measurements of HMOs (“HMO Report Card”). The draft measures were released for public comment at the November meeting. One comment was received and resulted in a technical change to the wording of one measure. Staff recommended measures for HEDIS, behavioral health, and urgent care to be collected during calendar year 2004 and 2005 to be approved as modified. Chairman Wilson suggested that staff send a letter to NCQA requesting additional study and modification of the colorectal screening measure, which is a first-year measure. Commissioner Walter Chase made a motion to approve the measures, which was seconded by Commissioner Larry Ginsburg, and unanimously approved.

FINAL ACTION: HMO Measures for 2004 and 2005 are hereby APPROVED.

ITEM 5.

FINAL ACTION: *Annual Mandated Health Insurance Services Evaluation*

Chairman Wilson said that MHCC is required to analyze the costs of all current mandated services and assess the financial, social, and medical impacts of proposed mandates. This report was released for public comment in November. Enrique Martinez-Vidal, Deputy Director for Performance and Benefits, requested final approval. Commissioner Crofoot made a motion to approve the report. Following discussion regarding the methodology used for analyzing the effects of the mandates, Commission Row seconded the motion, which was unanimously approved.

FINAL ACTION: *Annual Mandated Health Insurance Services Evaluation* is hereby APPROVED.

ITEM 6.

FINAL ACTION: *Study of Mandated Health Insurance Services: A Comparative Evaluation*

Chairman Wilson said that during the last session, the General Assembly enacted HB 605, which repealed a cap on mandated benefits and required the MHCC to evaluate all existing mandates in terms of comparable coverages in self-funded plans and in neighboring states. The Commission will be required to do this study every four years. Mr. Martinez-Vidal said that the report was released for public comment in November and staff is requesting final approval for delivery to the General Assembly. Following discussion among the Commissioners, Mr. Martinez-Vidal, and Bruce Kangasser of Mercer Health Resources Consulting, Chairman Wilson suggested that the report was incomplete and would be considered again by the Commissioners in January.

ITEM 7.

FINAL ACTION: *Study of Issues Related to the Small Group Market:*

Administrative Costs of Health Plans
Methodology for Developing the Comprehensive Standard Health Benefit Plan
Report on the Feasibility of a Basic Plan
Other Potential Changes to the Small Group Market

Chairman Wilson said that this report goes beyond by the required study of administrative costs of health plans, methodology for developing the standard benefit plan and the feasibility of a limited benefit plan. The report analyzes a number of the other options and represents the culmination of a very public process including several meetings with stakeholders and several opportunities for comment. Mr. Martinez-Vidal said that this comprehensive report includes several studies required under SB 477 (2003) including:

I. Report on the Study of Administrative Costs in the Small Group Market

An analysis of the administrative cost of health plans in the small group market, including: (1) the total amount and distribution of administrative costs; (2) the strategies for lowering administrative costs; and (3) the appropriateness of the medical loss ratios specified in § 15-605(c)(1) of the Insurance Article. Commissioner Stephen Salamon made a motion to approve the report, which was seconded by Commissioner Robert Moffit, and unanimously approved.

Report on Study of Administrative Costs in the Small Group Market is hereby APPROVED.

II. Methodology for Developing the Comprehensive Standard Health Benefit Plan (CSHBP)

This study includes the history of the development of the CSHBP; the current process for reviewing the CSHBP; and the process that occurred in 2003 for modifying the CSHBP to comply with the newly enacted 10% affordability cap. Vice Chairman Malouf made a motion to approve the report, which was seconded by Commissioner Debra Risher, and unanimously approved.

Methodology for Developing the Comprehensive Standard Health Benefit Plan (CSHBP) is hereby APPROVED.

III. Report on the Feasibility of a Basic Plan

This study requires the MHCC to study the feasibility of offering a basic plan in the small group market in addition to the CSHBP. Vice Chairman Malouf made a motion to approve the report, which was seconded by Commissioner Robert Nicolay, and unanimously approved.

Report on the Feasibility of a Basic Plan is hereby APPROVED.

IV. Other Potential Changes to the Small Group Market

While not required by law, the Commission wanted to explore and present information on some additional potential options to change the small group market that could only be implemented through statutory changes. Some of these are based on legislation introduced during the 2003 session but not enacted, and others are based on options that have been put forth in other states, proposed at the federal level, or have been reported in academic literature. These options include: Purchasing Pools, Reinsurance, Tax Credits, and List Billing of Individual Policies. Commissioner Clifton Toulson, Jr. made a motion to approve the report, which was seconded by Commissioner Moffit, and unanimously approved.

Other Potential Changes to the Small Group Market is hereby APPROVED.

ITEM 8.

FINAL ACTION: *Report on the Study to Clarify the Status of Existing Certificates of Need for Hospice Services and the Process for Updating the State Health Plan's Hospice Chapter*

Chairman Wilson said that the next report due to the legislature is required by SB 732 (2003) on the status of existing Certificates of Need for hospice services and MHCC's process for updating the State Health Plan for this service. Linda Cole, Chief, Long Term Care and Mental Health Services, presented a summary of this report. SB 732 requires the Commission to conduct a study to clarify the existing status of hospice programs in Maryland. Data are presented on hospice name; agency organization; grandfathered status; jurisdictions served in 2001; Certificate of Need authority; and mergers and acquisitions. These data do not reflect the results of any appeal determinations or actions by the Office of Health Care Quality pursuant to SB 732 regarding jurisdictions served in 2001. SB 732 also requires the Commission to begin a process for updating the State Health Plan's hospice chapter using data collected independently by the Commission. Much of the Commission's work following the passage of SB 732 has focused on hospice data collection. A Notice was published in the May 2, 2003 issue of the *Maryland Register* formally announcing the addition of hospice to the types of providers that the Commission surveys under its mandate. The data collection process is the first step towards the update of the State Health Plan Chapter on hospice services. Following implementation of the new survey, staff will review the 2003 data as well as trends in utilization from previous hospice surveys. The Commission will conduct a thorough assessment of current Certificate of Need policies and standards, as well as the methodology for projecting future need for hospice services. To assist in this process, the Commission will convene a Work Group on Hospice Services in order to consult with those knowledgeable in hospice services, including experts, clinicians, hospice providers, and volunteers. Commissioner Chase made a motion to approve the report, which was seconded by Commissioner Row, and unanimously approved.

FINAL ACTION: *Report on the Study to Clarify the Status of Existing Certificates of Need for Hospice Services and the Process for Updating the State Health Plan's Hospice Chapter is hereby APPROVED.*

ITEM 9.

PRESENTATION AND RELEASE FOR PUBLIC COMMENT: *Update on HB 805, Reimbursement of Health Care Providers (2002), Report to the General Assembly*

Chairman Wilson announced that the *EDI Progress Report, 2003* would be moved to the January meeting of the Commission. The next agenda item was one more legislative report required to be delivered early in the 2004 legislative session. HB 805, passed in 2002, required a very complex study of health care provider

reimbursement issues. The study, which was done jointly by MHCC and the Health Services Cost Review Commission, has several parts. Mr. Steffen presented a summary of a draft of the report. In 2002, the Maryland Legislature passed legislation that required the MHCC and HSCRC to study a number of physician reimbursement issues including: (1) whether the state should maintain a prohibition against the balance billing of health maintenance organization subscribers for covered services; (2) the feasibility and desirability of the development of a provider rate setting system that would establish both minimum and maximum reimbursement levels for health care services delivered in the state; (3) the feasibility and desirability of expanding the hospital rate setting system to include reimbursement of hospital-based and university-based physicians; (4) the feasibility of establishing an uncompensated care fund to subsidize reimbursements to providers that deliver a disproportionate amount of uncompensated care to state residents, including emergency room physicians, trauma physicians, hospital-based and university-based physicians, and other health care providers as determined by the Commissions; and (5) the prevalence of health care provider reimbursement methodologies employed by commercial insurance carriers, including health maintenance organizations, that are based on provider licensure; and the level of reimbursement provided by commercial payers as a percentage of provider costs compared to reimbursement provided by public payers as a percentage of provider costs. It was the consensus of the Commissioners to release the report for public comment.

Study of Reimbursement of Health Care Providers Required Under HB 805 (2002), Report to the General Assembly is hereby released for public comment.

ITEM 10.

Hearing and Meeting Schedule

Chairman Wilson reviewed the procedures for the upcoming legislative session. He said that next scheduled meeting of the Maryland Health Care Commission would be on Thursday, January 15, 2004 at 4160 Patterson Avenue, Room 100, in Baltimore, Maryland at 1:00 p.m.

ITEM 11.

Adjournment

There being no further business, the meeting was adjourned at 3:53 p.m. upon motion of Commissioner Risher, which was seconded by Commissioner Salamon, and unanimously approved by the Commissioners.